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NO ___

IN THE

Supreme Court of the United States

NICOLAS S. LAURENT
et, al.,

Petitioners,

v.

NANCY N. HERKERT, CHAPTER 13 TRUSTEES
et, al.,

Respondents,

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether state common law preempts federal regulatory law and the specific guidance of a federal agency defining the petitioners' property rights in their own body tissue used for medical research?

LIST OF PARTIES

Pursuant to Rule 14.1(b), the following list identifies all of the parties before the United States Court of Appeals for the Eighth Circuit.

Richard N. Ward, Thomas A. McGurk, Jr., Luis Garcia, Antonio Castro, Philip Wilard, Ivan Parron, James D. Ellis, Mike Missios, and William J. Catalona were the appellants below.

Washington University was the appellee below.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issues to review the judgment below.

OPINIONS BELOW

The opinion of the court of Appeals, entered on November: 29, 2006, -is not reported., App. 1a-4a., and the court subsequently deny a petition for rehearing filed on January 22, 2007. App. 5a.

JURISDICTION

The Judgment of the Court of Appeals for Eleventh Circuit entered on November 29, 2006. App. 1a- 4a, subsequently Petition for Rehearing denied on January 22, 2007. App. 5a.

On May 14, 2007, Justice Thomas extended the time for filing the Petition of Writ of Certiorari to and including June 6, 2007. The Jurisdiction of this Court is invoked under 28 U. S. C. § 2101 (C) and 28 U. S. C. § 1254 (1).

STATUTORY PROVISION INVOLVED

XIV Amendment - No states shall make or enforces any law which shall abridge the privileges or immunities of the United States, nor shall any states deprive any person of life, Liberty, or property without due process of the law, nor deny to any person within the jurisdiction equal protection of the law.

STATEMENT OF THE CASE

Nature of the Case, Course of Proceeding and the Disposition below:

Petitioner files this Petition for Writ of Certiorari to the Supreme Court of the United States to review and vacate the order deny petition for rehearing filed on January 22, 2007 App. 5a., and affirmed on November 29, 2006, render in the Court, of Appeals for Eleventh Circuit Atlanta Georgia. App. 1a-4a.

Court of Appeals erred in the opinion made in case Number: 06-12407-CC, on November 29, 2006, affirmed the United States District Court Southern District of Florida order, entered on March 29, 2006, which is in conflict with the Bankruptcy Rules Procedure of Automatic Stay, pursuant to Rules 8002(a). App. 6b-15b.

On March 29, 2006, U. S. District Court, Judge Jose E. Martinez erred, in the Final dismissal case closed, deny Petitioner Laurent's motion for leave accompany Notice of Appeal filed timely on April 28, 2005, in the bankruptcy Court, to U. S. District Court , within 10 days entry of the bankruptcy court's order, which states that a Notice of Appeal, pursuant to Rules 8002(a), must be filed within 10 days of the date of the entry of the order appealed from, which petitioner Laurent comply, with the bankruptcy rules of Appellate procedure.

In this case, U. S. District Court has jurisdiction, since Mr. Laurent filed his Motion for Leave and Notice of Appeal timely. On April 20, 2005, Petitioner discovered in the Bankruptcy Court docket, order case

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[1] 11 U.S.C. § 362 (a) (1)(1994), it was created to prevent different creditors from filing an action in different court in various attempted to capture the bulk of the debtor assets. Norris vs. Estates of Norr, 143 11 app. 3d 741. 748. 493. N. E. (121) (1986).

closed, on April 14, 2005, and discharge the chapter 13 trustee, on April 19, 2005, without Petitioner Laurent. consent, Knowledge, and without service of process.

On April 20, 2005, Petitioner Laurent filed Objection to the order case closed and discharge, without Petitioner Laurent consent, and knowledge, in which the clerk of court failed to docket, in the court system.

Thereafter, on April 21, 2005, Petitioner filed Objection to the deception foreclosure, made in the State court, Eleventh Judicial Circuit, Miami Florida, indicated this property is protected under the bankruptcy code., and this action took place premature in violation of the bankruptcy Federal Rules of Automatic Stay pursuant to rule 8002(a).

Subsequently, on April 28, 2005, Petitioner Laurent filed Motion for Leave accompanied Notice of Appeal timely, for the order Discharge trustee, case closed, on April 19, 2005, indicated the bankruptcy court abused its discretion closed chapter 13 case, premature, without petitioner consent, and knowledge.

Consequently, on May 2, 2005, Bankruptcy Order Reopened chapter 13 case closed, Judge Raymond B. Ray states that the bankruptcy Court erred close Laurent's Chapter 13 case, on April 14, 2005, docket on April 19, 2005, in the order discharge trustee, premature, in the entry ten days of the automatic stay, prior for Mr. Nicolas S. Laurent, to filed objection or notice of Appeal, pursuant to rules 8002 (a). App. 17c.

Judge Raymond B. Ray is bias and prejudice toward Petitioner, Nicolas S. Laurent by abused Mr. Laurent XIV amendment right to due process. Subsequently, on May 27, 2005, Bankruptcy court granted Petitioner Laurent Transmittal Motion for Leave to appeal to District court, in Miami, Florida. App. 21c-22c.

Consequently, on June 27, 2005, Petitioner Laurent

filed Initial Brief, in the District Court, and sent a copy, by first class mail, to Respondent, Nancy N. Herkert.

Respondent, Nancy N. Herkert failed to filed or serve any Answer Brief in the District Court, Miami, Florida.

Thereafter, on July 1, 2005, Petitioner filed Motion to Stay pending on appeal, in the District court of Florida.

Thereafter, on April 5, 2006, Petitioner filed objection, and Motion to Alter or Amend the final dismissal order, which the district Court denied on April 10, 2006.
Finally, on April 19, 2006, Petitioner filed Notice of Appeal to Court of Appeals.

On October 10, 2000, Petitioner, Nicolas S. Laurent filed voluntary Petition under Chapter 13, reorganization payment plan of Title 11, in the Bankruptcy Court Southern District of Florida, and retained three Bankruptcy attorneys, Michael A. Frank, Michael J. Brooks and Rodolfo de La Guardia and paid the attorneys to represent and filed on behalf of Petitioner Laurent a Chapter 13 payment plan, in case # 00-50881 BKC PGH- to paid the creditors, including the mortgage company EquiCredit Corporation of America, and the property tax, for the homestead property, inside the chapter 13 payment plan, for 5 years term, monthly payment, at 18 % interest rate, the plan confirmed by Ms. Nancy N. Herkert, Chapter 13 trustee, the creditors, as well as U. S. bankruptcy Court.

Thereafter, on March 8, 2002, EquiCredit Corporation of America sent Mr. Laurent notice of assignment, transfer or sell the mortgage to Fairbanks Capital Corporation, indicated the sale or transfer will be effective on April 1, 2002. App. 25c-26c.

Fairbanks Capital Corp., a creditor that received payment every month, inside Mr. Laurent's chapter 13 payment plan, effective April 1, 2002.

Mr. Laurent complying with the term and condition of the confirmed payment plan, to made the payment to Ms. Nancy N. Herkert, to paid the creditors.

From October 10, 2000, to December 10, 2002, former bankruptcy attorney Michael J. Brooks, Chapter payment plan, on behalf of Petitioner Laurent demonstrated that Petitioner paid $ 2, 077.70., per month, inside the chapter 13 plan, total amount paid for 26 months $ 54, 020. 20. Thereafter on December 2002, Petitioner Laurent retained a different bankruptcy attorney name Jared J. Kullman, after the resignation of the three previous chapter 13 bankruptcy attorneys.

On January 2003, former attorney Jared J. Kullman, Chapter 13 plan, on behalf of Laurent demonstrates, from January 10, 2003, to December 10, 2003, Petitioner, paid $ 2, 410. 69, per month, total paid $ 24, **106.** 90, plus $ 54, 020. 20, from former attorney Michael J. Brooks payment plan, total amount payment Petitioner made to respondent, Nancy N. Herkert, $ 78, 127. 10, dollars.

Consequently, Respondent, Nancy N. Herkert, failed to credit Petitioner Laurent, more than $ 24, 106. 90, payment, received inside Chapter 13 payment plan.

Thereafter on November 10, 2004, Respondent, Nancy N. Herkert filed Notice of Deposits of Balance funds, in the U.S. bankruptcy court, amount of $ 4, 681. 64 out of $ 24, 106. 90 failed to credit Petitioner inside the chapter 13 payment plan, case # 00-50881- BKC, which is still in the bankruptcy court Registry as of today. App. 27c.

Now, the remaining balance is $ 19, 425, 26, which respondent Herkert, and the Bankruptcy court failed to credit Petitioner, inside the Chapter 13 payment plan.

Petitioner paid Respondent Herkert, enough money, to paid all the creditors, include Fairbanks Capital

Corp. now change its name to Select Portfolio Servicing Inc.

Ms. Nancy N. Herkert implicated with Fairbanks Capital Corp., in the misleading deception foreclosure action, in Petitioner's residential property, inside the chapter 13 payment plan, without Mr. Laurent knowledge, & without service of process.

Respondent, Nancy N. Herkert failed to protected Petitioner's estate, which is protected under Bankruptcy chapter 13 code, and failed to refrain the creditors from abusing Petitioner's automatic Stay. 11.U.S.C. § 704, the trustee shall be accountable for all property received, examine proof of claims, and object to the allowance of any claim, that is improper.

U. S. District court Judge Jose E. Martinez erred in the statement made in the Final dismissal, case closed, on March 29, 2006, regarding the dismissal on January 7, 2004, but judge Martinez failed to acknowledge that Petitioner Laurent had automatic Stay in effect, on February 2, 2004, granted by Judge Paul G. Hyman, in the bankruptcy court, Case # 00-50881-BKC-PGH, and that the chapter 13 case was Reopened on August 10, 2004, for appeal, and was pending on appeal in the Court of Appeals, when Judge Raymond B. Ray decided to close the chapter 13 case, on April 14, 2005, and discharge the trustee, on April 19, 2005, premature, before the Final ruling of the Court **of Appeals** on August 22, 2005, Case No:04-16182 -HH.

On January 7, 2004, Chapter 13 payment plan was dismissed, according to Ms. Nancy N. Herkert, trustee, for lack of document, not for payment. Subsequently, Petitioner Laurent called Ms. Nancy N. Herkert's office, to verify what kind of document needed to vacated the dismissal, but Respondent, Nancy N. Herkert refused to spoke to Petitioner Laurent, in the telephone.

Finally Ms. Herkert's secretary indicated to Mr. Laurent, that Respondent, Nancy N. Herkert, preferred to spoke to petitioner's attorney Jared J. Kullman, regarding the dismissal.

Mr. Laurent called and went to the attorney office, but unable to located attorney Jared J. Kullman.

Thereafter, Petitioner located attorney Kullman, who indicated to Petitioner, Laurent his father passed away, and that is the reason his office, was closed temporarily, and indicated he will contacted and worked with the trustee to verify what kind of document needed to resolved this matter, and to vacated the dismissal, as soon as possible.

On January 2004, attorney Jared J. Kullman filed Motion to vacated the dismissal, on January 7, 2004.

Thereafter, on February 2, 2004, former attorney Kullman filed second motion to vacated the order of dismissal, indicated for lack of document. App. 23c.

Subsequently, on February 2, 2004, Petitioner filed Motion for automatic Stay of execution and suspend proceeding for all the creditors action, granted by bankruptcy Judge Paul G. Hyman. App. 24c.

Consequently, on February 5, 2004, bankruptcy court Order Setting Motion for Automatic Stay for March 1, 2004, at 9: 30, in Ft. Lauderdale, FL. App. 24c.

On March 1, 2004, Petitioner Laurent went to the notice of Hearing, for Motion for automatic stay.

Respondent, Nancy N. Herkert, and the creditors failed to appeared for the hearing, and Judge Paul G. Hyman, granted the motion for stay up to April 2004.

Respondent Herkert, has tendency to dismissed Petitioner Laurent chapter 13 payment plan, on several occasions, and refused the payment plan to work, in a normal course, in order to conceal the fraudulent transfer made in petitioner's Guardian home property taxes,

without relief from automatic Stay, from revealing

On January 2004, to April 2004,et., Petitioner Laurent comply, by contacted and sent affidavit letter to Fairbanks Capital Corp., now change its name to Select Portfolio Servicing Inc., and offered to made the mortgage payment directly, in so many occasions, but Fairbanks Capital Corporation refused and failed to comply, with Petitioner requested.

On March 17, 2004, Fairbanks Capital Corp., conspire with U.S. Bank National Association, etc, to initiate a false allegation misleading deception foreclosure action, on Petitioner's homestead exemption property, without service of process to Mr. Laurent, and wife for the Summons, Complaint, the Summary and final Judgment, and made a false statement indicated Prince A. Donnahoe IV is the attorney who represented Mr. Laurent, and wife. Mr. Jared J. kullman was the attorney, at that time, who represented Mr. Nicolas S. Laurent, in the bankruptcy Court Chapter 13 payment plan.

U.S. Bank National Association, F/K/A First Bank National Association TR U/A dtd 03 / 01 / 97 (Home Equity Loan trust 1997-1), attorney Denise Rosenthal filed a wrongful deception foreclosure, Case No. 00-18954 CA 09, in the state court, Eleventh Judicial Circuit, Miami, Florida, without Relief from automatic Stay, indicated it is the first valid mortgage who hold the note, and mortgage to petitioner Laurent, and wife residential property, which is incorrect. The State courts, Eleventh Judicial Circuit Court, Judge Marc Schumacher abused it discretion, failed to requested U.S. Bank National Association relief from Stay, before initiated the foreclosure action in Petitioner's property.

Fairbanks Capital Corp., now known as Select Portfolio Servicing Inc., has tendency to assess fees, overcharged payment, initiate deception foreclosure actions, when the

consumer doesn't owed. Petitioner discovered in the brochure there is foreclosure action against his residential homestead property.

On April 8, 2004, Petitioner Laurent filed affirmative Defense to object the foreclosure, and to vacate the final Judgment, in the Eleventh Judicial Circuit Court, indicated U.S. Bank National Association is not the valid mortgage, for Mr. Nicolas S. Laurent property, and that it violated the automatic Stay, inside the Chapter 13 payment plan.

On or about April 2004, etc., Petitioner Laurent attempted to refinance, went to closing to payoff, but the closing didn't took place, because Fairbanks Capital Corporation, now change its name to Select Portfolio Servicing Inc., refused to cooperated by charging excess amount, of fees for payoff, & other fees.

Consequently, on April 22, 2004, Court order granting Mr. Laurent Affirmative Defense, to object the foreclosure action, in the Eleventh Judicial Circuit court, recorded on Harvey Ruvin Official BK 22371 PG 3513, in Dade County Miami, Florida.

On July 1, 2004, Fairbanks Capital Corporation change its name to Select Portfolio Servicing Inc.

On June 18, 2004, Respondent Nancy N. Herkert order discharge the trustee, case closed in case # 00-50881- BKC-PGH, without Petitioner Laurent consent, Knowledge and without service of process.

On August 10, 2004, Order Reopening Petitioner Bankruptcy Chapter 13 case for appeal. Subsequently, on April 14, 2005, the bankruptcy court and Respondent, Nancy N. Herkert, erred made a second order case closed, thereafter, on April 19, 2005, discharge the trustee premature, without Petitioner consent and knowledge, and when petitioner had a bankruptcy case that was pending in the Court of Appeals, case # 04-16182 -HH. App. 16c.

On April 21, 2005, U. S. Bank National Association conspire with Fairbanks Capital Corp., now known as Select Portfolio Servicing Inc., to made a deception foreclosure, on Petitioner's residential homestead exemption property, without relief from automatic Stay.

Thereafter Petitioner filed Objection in the State Court, Eleventh Judicial Circuit Court, on April 21, 2005.

Consequently, on May 2, 2005, in the Order Reopened the Chapter 13 case, Judge Raymond B. Ray recognized and acknowledge in the order "that the bankruptcy court made clerical mistake, by closed Petitioner chapter 13 case premature, on April 14, 2005, and discharge trustee, on April 19, 2005, in the entry of ten days of Automatic stay, pursuant to Rule 8002(a), "App. 17c.

State Court, Eleventh Judicial Circuit, Dade County, Florida, Judge Marc Schumacher had ample opportunity to requested U. S. Bank National Association relief from Stay, in case # 00-18954 CA (09) prior to initiated the foreclosure action, in Petitioner's residential property.

Eleventh Judicial Circuit court and the Third District Court case # 3D04-1052, failed to comply with the Bankruptcy Federal rules of Automatic Stay. On October 1, 2004, Default enter against U. S. Bank National Association etc, by the Deputy Clerk, in the state court, Third District of Florida for failure to answer Petitioner, Counterclaim serve by a sheriff.

On May 5, 2005, Petitioner filed Motion to Stay pending appeal to the Court of Appeals.

Subsequently, on May 13, 2005, Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp, rushed in the bankruptcy court, to filed Motion for declaration the automatic stay is not in effect, after the deception foreclosure, already occurred, without relief

from automatic stay, indicated that it hold the note, and mortgage to Petitioner's residential property, and need comfort order for the foreclosure action on April 21, 2005, to proceed. App. 18c- 20c.

Select Portfolio Servicing Inc., is not entitle to retroactive stay; since it is a creditor, inside the chapter 13 payment plan, knowing fully that it need to requested relief from stay, prior to initiate the foreclosure action.

Fairbanks Capital Corp., failed to requested relief from automatic Stay, prior to initiated the foreclosure action, on Petitioner's property.

Thereafter, on May 18, 2005, Petitioner Laurent filed objection to Select Portfolio Servicing Inc., Motion, indicated U.S. Bank National Association etc, attorney Denise Rosenthal, **never mention** Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp., as a party in the lawsuit, U.S. Bank National Association v. Nicolas S. Laurent and, wife Sandra, filed in the Eleventh Judicial Circuit Court, Dade County, Miami, Florida. On May 27, 2005, the bankruptcy court granted Petitioner Laurent Transmittal Motion for Leave to appeal to District Court, order discharge trustee, case closed, App. 21c-22c.

Respondent, Nancy N. Herkert is incompetent, and unwilling to perform the duties of a trustee, failed to object to any creditors violation, in Petitioner Chapter 13 payment plan, Automatic Stay. The ninth Circuit that specifically rejected the reasoning of the case, which the trustee relies for the proposition that a trustee is only liable for intentional act. Dioguardi vs. Durning 2 Cir. (1944)139 F. 2d 774. In panel reviews of law de Novo under Kashani, and In re Cochise College Park 703 F. 2d 1339 (9th Cir. 1983, on which the panel in Kashani relied, the trustee, and her staff are not immune from

suit alleged negligent action that amount in violation of those duties.

The bankruptcy court abused its discretion in the order made on April 19, 2005, discharge the trustee premature, in the entry of the ten days automatic stay; and Judge Raymond B. Ray erred in the order made on June 15, 2005, and on June 23, 2005, since Petitioner already had stay in effect, filed on May 5, 2005, in the bankruptcy court, which Judge Raymond B. Ray never deny until July 23, 2005. App. 16c.

Fairbanks Capital Corporation now known as Select Portfolio Servicing Inc., several United States Lawsuit

United States of America vs. Fairbanks Capital Corp., etc case No 03- 12219 –DPW.
Alanna L. Curry, Marlene L. Brenes, and Thomas O White. Fairbanks Capital Corporation case No. 03 -10895 DPW. Paul J. Alexander, Jr. et al v. Fairbanks Capital Corp. et al; 03-027 Delores Alsbrook v. Fairbanks Capital Corp 2: 03- CV-02386(R K), Philadelphia County Court of Common Pleas, A). Marc A. Bradley, et al v. Fairbanks Capital Corp, et al; 02- 7 C-7786, ND. lll. Allan R . Brause v. Fairbanks Capital Corp. 13C-03-55637, Md Charles & Bernadette Chatman v. Fairbanks Capital Corp.; No. 02-665, N. D. III.

U.S. District Court of Massachusetts executed a Permanent court order Injunction: against Fairbanks Capital Corporation, now change its name to Select Portfolio Servicing Inc., for deception foreclosure.

Select Portfolio Servicing Inc., attorney Gregg S. Ahrens abused the legal system knowing fully that Select Portfolio Servicing Inc., the company it represent have a permanent court injunction in the lawsuit filed in the district court of Massachusetts, on November 12, 2003, and signed by the Judge on **November 21, 2003,** prohibit Fairbanks Capital Corp. from committing

deception misleading foreclosure case #: 03- 12219- DPW, and 03-10895 DPW.

Fairbanks Capital Corp., failed to comply with the five years Permanent Court Order Injunction by initiate the same deception foreclosure, on Petitioner's property, on or about January 2004, without service of process to petitioner. Select Portfolio Servicing Inc., and U.S. Bank National etc, violated the Automatic Stay, with malicious intent, in bad faith, knowing fully that petitioner, a debtor inside the Chapter 13 bankruptcy payment plan.

An order terminating the Automatic Stay permits a party to re initiate, or start another one, after the termination order is entered, but does not effect the status of actions taken between the filing of the bankruptcy petition and the entry of the termination order, such action are void ab initio. Eastern refractoriness Co. Inc. v. Forty Eight Insulations Inc., 157 F. 3d 169 (2d Cir. 1998). 18.U S. C.§ 3057(a): Any trustee having reasonable grounds for believing bankruptcy crimes has been committed, or that an investigation should be held in connection therewith shall report to the appropriate U. S. Attorney all the facts and circumstance, which Respondent Herkert failed to abide.

U.S. District Court in Miami-Florida is in conflict with U. S. District Court of Massachusetts which entered permanent Court **Injunction** for five years, against Fairbanks Capital Corp, it agents, employees, prohibit from committing deception, misleading foreclosure, case #: 03-12219 - DPW, and case # 03 -10895 DPW.

Bankruptcy Court in Florida is in conflict with District Court of Massachusetts, since Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp. has permanent Court Order Injunction for five years case # 03 12219, in the District Court of

Massachusetts, effective as of today.

District Court judge Jose E. Martinez erred in the order of Final dismissal, Case closed, failed to vacated the bankruptcy court order on April 19, 2005, since Judge Raymond B. Ray indicated in the order made on May 2, 2005, the bankruptcy court made clerical mistakes, closed the chapter 13 case premature, on April 14, 2005, and discharge trustee, on April 19, 2005, in the entry 10 days of automatic stay, pursuant to rules 8002 (a), App. 17c.

A Chapter 13 trustee must also ensure that the rights of the bankrupt, as defined by the bankruptcy code & rules are not abused, Kingwood oil Co. v. Bell 204 F. 2d 8, 13 (7th Cir. 1953).

Respondent, Nancy N. Herkert, failed to object, by allowed creditor Fairbanks now known as Select Portfolio Servicing Inc., to committed violations in the Automatic Stay. Each state or commonwealth where Fairbanks does business has a law that prohibits Unfair and Deceptive Acts and Practices ('UDAP laws). In Rufus Rhine V. M. E. Montgomery, magistrate Judge of Scott County, Missouri 422 S. W. 2d 661. It was decided that any kind of proceeding to cancel a void judgment is proper, and it is the duty of this court to declare the order void as a matter of law.

Fairbanks charged with imposing and collecting unnecessary and excessive fees, & charge not authorized by law, failing to properly and or timely credit customer's payment to their accounts., charging borrowers improper late fees, engage in conduct that violates state and federal consumer protection. **A void judgment is entitle to no consideration, and is void forever { It is as if the act never occurred, and therefore isn't subject to any statute of limitations or waiver or collateral estoppels.**

Court of Appeals is in conflict with its own ruling in 1982. "Borg Warner Acceptance Corp. v. Hall 685 F. 2d 1306 (11th Cir. 1982), Action taken in violation of the automatic is void, and without effect. A creditor may be subject of court, and a fine, and the debtor may be entitle to attorney fees. 18.U. S. C. Section 157, Select Portfolio Servicing Inc., formerly known as Fairbanks etc., made intrinsic fraud conspire with U. S. Bank National Association etc., in a relation to a proceeding under Title 11, for the purpose of carrying out a fraudulent schemes.

Bryson 131 F . 3d 601, 38 Collier Bankr. Cas 2d B 1673, 38 FED, R, SER V. ETC, the Bankruptcy Court has authority under § 105 to sanction an attorney who has acted unreasonably and vexatious.

Chambers v. Goldberg, Inc., 501 U. S. 32 111 S Ct 2123 (1991) Federal Judges have an inherent power to punish parties, and attorney in contempt, and the right to discipline. there are no requirements that the offensive action need occur, in the presences of judges.

Select Portfolio Servicing Inc., failed to comply with the terms and condition of the ten days writing Notice, in the promissory note, to requested payment, before initiate any action against Laurent property, without relief from Automatic Stay. Fairbanks Capital Corp, and U.S. Bank etc., failed to contacted Petitioner Laurent, former attorney Jared J. Kullman, to requested mortgage payment, as required by the ten days notice, in the promissory note, before initiate the foreclosure.
Respondent, Nancy N. Herkert and attorney Jared J. Kullman never indicated to Mr. Laurent there is a foreclosure action in his residential property.

State Court, Eleventh Judicial Circuit abused its discretion by initiated the foreclosure, action, on April 21, 2005, when Petitioner's automatic Stay was active, in full effect, for the property described as:

Lot 10, in Block 1, of Lake Side Manor, according to the Plat thereof as recorded in Plat book 55 of the Dade County, Florida folio # 30-2127-014-0100.

The filing of an action, in violation of the automatic Stay, provision of Section 362(h) of the Bankruptcy Court is void. The Automatic Stay gives the debtor protection from his creditors; include foreclosure action, beginning collection calls, Repossession, Garnishment or levies, and precludes creditors from enforcing pre-petition judgment against debtor; Anyone who willful violates the stay, in a case of an individual is liable for punitive damages. In a chapter 13 the stay remain in effect, for the life of the chapter 13 payment plan, for example, when the debtor gets a discharge, the Automatic Stay, replaced by permanent injunction prohibiting creditors from all those action.

Any action in violation of the Stay has no legal effect, A judgment rendered during the pending of Automatic stay is Void, and annul, because it constitutes the exercise of Judicial discretion, in violation of the automatic stay. Void is defined as annul, nugatory, having no legal effect, unable in law to support the purpose for which it was intended. Fairbanks Capital Corp., now known as Select Portfolio Servicing Inc., received permanent Injunction order, in the lawsuit filed **on November 12, 2003**, Case # 03-12219-DPW- in the District Court of Massachusetts, which indicated that it is further order, that for five years, after the date of entry of this order that Fairbanks Capital Corp. hereby permanently restrained, and enjoined in connection with the servicing of any loans, from assessing and or collecting as follows:

In connection, with the collection of any debt in violation of Section 807 of the FDCPA, 15 U. S. C. §

1692 (e), including but not limited to (1) false represent .g the character amount or legal status of a debtor any services receives rendered or compensation, which may be lawfully received by a debt collector for collection of a debt, in violation of Section (807) (2) (A).

B. Fairbanks prohibits from using any unfair means to attempt to collect a debt.

C. prohibit from using false deceptive, or misleading representation or means, prohibits from taking any action been the subject of any legal practices and investigate, and resolve any consumer disputes.

D. prohibits from failing to notify consumer of the right to dispute, and obtained verification of the debt, and also prohibit from violating the FDCPA, the FCRA, and the RESPA. 18. U.S. C.§ 362, Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corporation always gives the wrong pay off, instead add unwarranted fees, and charge not authorized, by law.

11.U. S .C. 704- Respondent, Nancy N. Herkert failed to accountable for all property received from Petitioner, failed to examine proof of claim, and failed to objected to the allowance of any claim, that is improper.

The foreclosure on Petitioner's residential property, is still pending in disputed, in state court. Mr. Laurent. discovered in the docket on July 15, 2006, Notice of Hearing and Motion for foreclosure filed on July 11, 2006, in the Eleventh Judicial Circuit court , case No: 00-18954 CA 09, for July 19, 2006, at 9. 00. a.m., without any service of process to Petitioner Laurent.

On July 18, 2006, Petitioner Laurent filed in the state court, Eleventh Judicial Circuit Motion to Dismiss Notice of Hearing and objection to Motions for foreclosure, & Dade Co. Petition for award of Surplus etc., and affidavit of indebtness, etc, for Lack of Jurisdiction over the -

subject matter, and Lack of Jurisdiction over the person, indicated petitioner paid his mortgage inside the chapter 13 Bankruptcy Court payment plan, and don't owed the chapter 13 payment plan.

Eleventh Judicial Circuit Court erred failed to requested creditor Select Portfolio Servicing Inc, formerly known as Fairbanks Capital Corp., motion for relief from stay, before initiate the foreclosure action, on Petitioner's property. District Court of Southern District of Florida is in conflict with the District court of Massachusetts:

Judge Jose E. Martinez erred in the order Final dismissal made on March 29, 2006, indicated it used Judge Cecilia M. Altonaga as example to dismissed Petitioner case Number: 05-21438-CV-Martinez.

Judge Jose E. Martinez should not used Judge Cecilia M. Altonaga as an example to dismissed Mr. Laurent Appeal, since Judge Cecilia M. Altonaga is in conflict with bankruptcy court order on May 2, 2005, and District court of Massachusetts 5 years permanent Court order Injunction against Fairbanks Capital Corp., now change its name to Select Portfolio Servicing Inc., for deception misleading foreclosures, signed by the judge on November 21, 2003, in the District Court of Massachusetts, case # 03-12219-DPW, 03 10895 -DPW.

Court of Appeals is in conflict with District court of Massachusetts, 5 years permanent Injunction order against

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[2] Whether the United States Bankruptcy Court abused its discretionary system, by violated ten days statue limitation of time pursuant to Rule 8002(a). to allowed petitioner Laurent in the chapter 13 payment plan, the opportunity to respond after the entry of the order closing the Chapter 13 case. on April 14, 2005, and discharge the trustee. on April 19, 2005. without service of process to Petitioner.

Fairbanks Capital Corp., now change its name to Select Portfolio Servicing Inc for deception misleading foreclosures.

Act undertaken in willful violation of the automatic Stay are void, and may expose the violators of monetary sanction and punitive damage pursuant to 11 U.S.C. 362 (h). Petitioner never request discharge of the Bankruptcy Chapter 13 case.

Judge Raymond B. Ray erred failed to refrain creditor Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp. from committed violation in Petitioner Bankruptcy Automatic Stay.

On May 2, 2005, order Reopening Chapter 13 case, Judge Raymond B. Ray acknowledge that the court erred on April 19, 2005, discharge the trustee, case closed premature, in the ten days of Automatic Stay. Upon an entry of judgment dismissal or discharge, in the Bankruptcy Court, automatically, the Stay is an effect for ten days. App. 17c.

Court of Appeals, and District Court erred failed to investigate Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp. abusive history in committing deception foreclosures, in the United States of America.

Remark Industries v. La. 973 F. 2d 1124 (3 d Cir. 1992), Supremacy Clause of the U. S. which provide that the law of the U. S. Constitution are Supreme law of the land no withstand any state law.

11 U. S. C. Section 323:

Respondent, Nancy N. Herkert is a private individual or corporation appointed in Chapter 13, bankruptcy cases, for Southern District of Florida.

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[3] Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp. routinely fabricate wrong foreclosure action, without proper notice, and when Petitioner, Laurent's mortgage loan is not in default. and violated the Federal Rules 18 U. S.C. & 1692f (1).

they are not component of Justice Department.

18 U.S.C.§ 153, trustee has the duty not to appropriate his or her own use embezzle, spend or transfer any property of the estate, furthermore the trustee has the duty not to secrete or destroy any document belonging to the estate, which came to his or her charge.

Fairbanks Capital Corp., now known as Select Portfolio Servicing Inc., refused to accept pay-off, made delay of time, by increasing, and charge excess amount of fees, and other fees, in so many occasions, which violates FTC and RESPA law, and has a tendency to assess late fees and other fees, even though borrower's monthly payment were not late, charge fees that were not authorized, obtained property insurance at the borrower's expense. In Fellheimer, Eichen, Braverman vs. Charter technologies 57 F. 321215 Bankr. L. Rep (CCH) 76544, 32 FED. R. SEV. 3d (LCP) 1263 (3 Cir. Pa. 1995.

Constitution Bank vs. Stubbs, 68 F. 3d 685 (3d Cir. 1995, violation of the automatic Stay is void, and could not invoke the subject matter jurisdiction of the Circuit Court, because the state Court lacked the necessary jurisdiction to rule upon. Elgin, Joliet, Eastern Ry Co v. Industrial Community 911 2 D 505, 507, 138 N. E 3d 553 (1956). Melrose Park National v. Capitol Bank Trust 18011 App. 3d 662 N. E. 2d 104 (1989). 290, 306, 703 N. E. 2d 883 (1998). Sunshine Development Inc. vs. Federal Deposit Insurance Corp. 33 F. 3d 106 (1 St Cir. 1994). Steel Co, v. Citizen for Better Environment 523 U. S. 83 118 S. Ct 1003, 1406.

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4. The majority of the Federal Circuit has determined that the automatic stay imposed by the federal bankruptcy Code divest a State Court of jurisdiction to adjudicate claims against the debtor Cohen v. Salata 303.

REASONS FOR GRANTING THE WRIT

Court of Appeals erred on January 22, 2007, in the order deny Petition for Rehearing and affirmed on November 29, 2006; the United States District Court order, signed on March 28, 2006, entered on March 29, 2006., which is conflict with Federal Rules bankruptcy court chapter 13 procedure.

Court of Appeals abused its discretion by affirmed chapter 13 bankruptcy court order case closed, on April 14, 2005, discharged the trustee, on April 19, 2005, premature, prior to the expiration of the 10 days entry of the automatic Stay, pursuant to Rules 8002 (a).
This case has great merit for the proper administration of justice.

District Court erred failed to vacated the bankruptcy court order made on April 19, 2005, in the entry ten days, of the automatic Stay. App. 17c.

Thereafter, on May 2, 2005, in the order Re-opening the bankruptcy chapter 13 case, Judge Raymond B. Ray admitted that the bankruptcy Court abuse Mr. Laurent right to due process, by closed the chapter 13 case, on April 14, 2005, discharge trustee, on April 19, 2005, in the entry ten days of the automatic stay, without petitioner consent and knowledge. App. 17c.

Court of Appeals abused its discretion by indicated Mr. Laurent is the one who indicated that the bankruptcy court closed the case premature on April 19, 2005. Actually this statement about the case close premature, in the entry of the ten days of the automatic stay was made, by Judge Raymond B. Ray, **on May 2, 2005,** in the order reopening petitioner chapter 13 case, who is the same judge who closed Petitioner case on April 19, 2005.

Petitioner Laurent is entitle to the homestead

exemption property, since petitioner is not in default in his mortgage payment to Fairbanks Capital Corp., now known as Select Portfolio Servicing Inc, who violated the automatic stay, in the bankruptcy chapter 13 payment plan.

The Eleventh Circuit Decision Does Conflict with this Court Precedents or the Law, in any other Circuit. Court of Appeals is contradictory to its own ruling made in Petitioner Laurent, case described above.

"Borg Warner Acceptance Corp. v. Hall 685 F. 2d 1306 (11th Cir. 1982) Action taken an violation of the Automatic Stay are void, and without effect. A creditor may be subject of court, and a fine, and the debtor may be entitle to attorney fees".

Petitioner Laurent's filed Motion for Leave accompany Notice of Appeal timely on April 28, 2005, in the bankruptcy court to the District Court., within 10 days of the bankruptcy court's order, which states that a Notice of Appeal, pursuant to Rules 8002(a), must be filed within 10 days of the date of the entry of the order appealed from, which petitioner Laurent comply, with the bankruptcy rules of appellate procedure.

The timely filing of a Notice of appeal is mandatory and jurisdictional. If the notice is not timely filed, the appellate court is without jurisdictional to hear the appeal.

In this case, the District Court has full jurisdiction to hear Mr. Laurent appeal filed timely. This case has great merit for greater public importance for the proper administration of justice, since it involved abuse discretionary, clerical mistakes, misrepresentation deception foreclosure, violation in the automatic Stay.

Courts have held that, if an act is void, because it violated the automatic stay, a subsequent court order terminating the stay will not revive the void action.

Petitioner Laurent doesn't owed mortgage payment, and comply with the term and condition of the bankruptcy court payment plan, to made the payment, to Respondent, Nancy N. Herkert, chapter 13 trustee, to paid Petitioner's homestead exemption residential property taxes include the mortgage payment. The power to retroactively annul the automatic stay must be exercised sparingly.

The principle of Bankruptcy law, the policies underlying the Automatic Stay, would be undermined by granting Select Portfolio Servicing Inc., retroactive stay. first creditor, Fairbanks Capital Corp., now change its name to Select Portfolio Servicing Inc., and U. S. Bank National Association failed to demonstrated that it justifiably believed its action did not violated the Automatic stay. "IMC Mortgage Co., Inc., v. Brown (In-re Brown), 251 B.R. 916 (Bankr. M. D Ga 2000) (Walker, J). In other words, the violation must not have been willful.

Second, the creditor must prove that it did not violate the policies underlying the automatic stay, " by shown that its action did not interfere with the breathing spell," created by the stay and that its foreclosure had no negative impact on other creditors, with respected to the first requirement, creditor knowing fully that it violated the automatic Stay., since Fairbanks Capital Corporation is a creditor receiving payment inside Petitioner chapter 13 payment plan, from Respondent, Nancy N. Herkert.

Court have held that if an act is void because it violated the automatic Stay, a subsequent court order terminate the stay will have to initiate a new suit.

Judge Jose E. Martinez is in conflict with bankruptcy court judge Raymond B. Ray order on May 2, 2005, which judge Raymond B. Ray admitted that the bankruptcy court made clerical mistakes, in discharged case closed premature on April 19, 2005.

On March 17, 2004, Jurisdictional Defect exist at the time Fairbanks Capital Corporation conspire with U. S. Bank National Association to commence the deception false representation foreclosure action, on petitioner residential homestead property, without relief from Automatic Stay, and without service of process to Petitioner and his wife in the State Court, Eleventh Judicial Circuit Court West Flagler Miami, Florida, case # 00-18954 - CA-09.

Select Portfolio Servicing Inc., is not a party in the lawsuit U.S. Bank National Association etc, vs. Nicolas S. Laurent, and wife, initiated by attorney Denise Rosenthal, in the Eleventh Judicial Circuit Court.

Denise Rosenthal, attorney for U. S. Bank National Association, etc, still has not filed any motion for relief from automatic Stay, in Bankruptcy Court Chapter 13 payment plan, as of today.

Fairbanks Capital Corp., now change its name to Select Portfolio Servicing Inc., failed to sent Petitioner any Notice of Intent to indicated it plan to foreclose on Petitioner's residential homestead property protected under the bankruptcy code. Kalb v. Feuerstein, 308 U. S. 433, 438, 60 S. Ct, 343, 346, 84 L ED 370 (1940) (the action of the court was not merely erroneous, but were beyond its power, void, and subject to collateral attack. Ellis v. Consol Diesel Elec. 894 F, 2d 371 (10th Cir. 1990) any action taken in violation of stay is void and without effect; In re marriage of Berkland, 762 P. 2d 779 (Colo 1988) of attorney's lien filed in violation of automatic Stay was void.

C.R.C.P. 60(b) (3) provides for relief from a Final

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5 Fairbanks Capital Corp., a creditor inside petitioner Chapter 13 payment plan was fully aware of the Automatic Stay, and have actual knowledge of petitioner Bankruptcy court filing. Proceeding that violate the Automatic stay are void and of no effect.

judgment, when the judgment is void. Thus since Select Portfolio Servicing Inc., and U. S. Bank National etc., had not sought relief, from the automatic Stay, in the Bankruptcy court to proceed in the State Court, Eleventh Judicial Circuit Court Miami, Florida, therefore Judge Marc Schumacher should never proceed, with foreclosure on petitioner's property on April 21, 2005. A Judgment obtained without jurisdiction over the defendant is void. Overby v. Overby, 457 S. W 2d 756, 758 (1987).

A Judgment is void if the court acted in a manner inconsistent with due process. A void Judgment is a nullity and can be vacate at any time."261 Kan, at 862. Eleventh Judicial Circuit, Court Lack of jurisdiction over the subject matter and Lack of Jurisdiction over the person to made the foreclosure action on Petitioner's residential property, on April 21, 2005, since the property is protected under the bankruptcy code. Select Portfolio Servicing Inc., and U. S. Bank National Association attorney Denise Rosenthal knowing fully of petitioner bankruptcy filing, and nevertheless proceeded with the foreclosure, supports a finding of willfulness. The court has no authority to reach merits, but rather should dismiss the action." Melo v. U. S. 505 F. 2d 1026. Court of Appeals Ruling is entirely inconsistent with Prior decision of this court, and other court. the automatic Stay §362 (a) prohibits" any act to obtain possession of property of the estates, or to exercise control over property of the estates.

Court of Appeals for Eleventh Circuit is in conflict with the Court of Appeals Second Circuit.

Court of Appeals for the Second Circuit in Crysen /

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6 Those actions were taken knowing of the existence of the Automatic stay, once jurisdiction is challenge, the court cannot proceed, when it clearly appears, that the court lacks jurisdiction.

Montenay Energy Co. v. Esselen Assoc., Inc., (In re Crysen / Montenay Energy Co.), 902 f.2d 1098 (2d Cir 1990) set forth the standard for awarding damages pursuant to code § 362 (h) **According to the Second Circuit, "{a)ny deliberate act taken in violation of a stay**, which the violator knows to be in existence, justifies an award of actual damages. Furthermore," (a}n additional finding of maliciousness or bad faith on the part of the offending creditor Select Portfolio Servicing Inc., and U.S. Bank etc., warrants the further imposition of punitive damage pursuant to 11 U. S.C. § 362 (h).

Section 362 (h) provides that "[a]n individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages."

Fairbanks Capital Corp., etc., violated the automatic stay willfully, in bad faith, and injured petitioner Laurent, and wife, and family. As a general proposition upon a finding that a willful violation of the stay has occurred, and that damages resulted an award of damages is mandatory.

In re Taylor, 854 F. 2d 478, 483 (9th Cir. 1989). In re Soares v. Brockton Credit Union (In re Soares), 107 F. 3d 969 (1st Cir. 1997), the court said that Section 362 (a) (1) of the bankruptcy codes provides "that the filing of bankruptcy petition stays the commencement or continuation of all bankruptcy judicial proceeding against the debtor, " id. at 973, and that acts committed in violation of the stay are void-not avoidable. Petitioner Laurent have ample interest and equity in the residential homestead exemption property. On March 17, 2004, Petitioner had Automatic Stay in effect in the bankruptcy court, at the time the state court, Eleventh Judicial Circuit, Judge Marc Schumacher made , quiet orders for

U. S. Bank National Association etc., against Petitioner's residential homestead property, without relief from automatic Stay, & without service of process. A willful violation of the stay, occur when a creditor with knowledge of the stay, seizes the debtor property, without first obtaining relief from stay from the bankruptcy Court. Bankruptcy Rule 8002 (a), Upon an entry of order enter in the bankruptcy Court docket, automatically the debtor have ten days of automatic Stay.

On April 21, 2005, at the time of the foreclosure, in the Eleventh Judicial Circuit Court, Petitioner made oral Objection, to halted the foreclosure, in his residential property, "indicated to the Court and to one of the bidder that was present named Mike ("Ike") Fernandez, etc., that Petitioner's residential property is protected under the bankruptcy Chapter 13 Code ; and Petitioner have 10 days of Automatic Stay, in effect as of today, from the Bankruptcy Court order entry on April 14, 2005, pursuant to Bankruptcy **Rules 8002 (a).** U.S. Bank National Association etc doesn't have relief from the automatic Stay, to bring this foreclosure action in the State Court, Miami, Florida

On April 21, 2005, Petitioner Laurent also filed writing objection to the foreclosure, in the Eleventh Judicial Circuit Court, Miami- Florida, indicated this property is protected under the bankruptcy code, and attorney Denise Rosenthal doesn't have relief from automatic Stay, to proceed with the foreclosure. The foreclosure department disregard the Bankruptcy Rules of Automatic Stay; proceed with the foreclosure, action on petitioner's property. The Supreme Court held that without proper jurisdiction a court cannot proceed at all, but can only note the jurisdiction defect and dismiss the lawsuit. Capron van Noorden, 2 Cranch 126; Arizonans for official English v. Arizona, 520 U.S. 43., without -

proper jurisdiction a court cannot proceed at all.

Courts are constituted by authority and they cannot go beyond that power delegated to them, If they act beyond that authority, and certainly in contravention of their Judgment and orders are regarded as nullities; they are not avoidable, But simply void, and this even prior to reversal' Williamson v. Berry, 8 How. 945, 540 12 L. Ed. 1170, 1189 (1850).

The bankruptcy court erred in closing the chapter 13 case, since Petitioner Laurent have enough sufficient of interest and equity in his residential property for effective Chapter 13 reorganization payment plan. Petitioner Laurent interest and equity in the property is superior to any other party, and to any other claim.

On or about December 1986, when petitioner brought the residential property, it was about 1200 (twelve hundred square feet. Petitioner spent thousands of dollars to expand and enlarge the residential homestead exemption property.

On or about 1986-1987, Petitioner made major entire renovation, in his residential property, add three new bathroom, living room, dining room, front porch, back porch , concrete sidewalk and five bedroom, total seven, bedroom. On April 21, 2005, Petitioner's interest, equity, and value in his homestead residential property exceed more than $ 350, 000. 00, (Three hundred fifty, thousand dollars), that is one of the reason why Fairbanks Capital Corp., is after Petitioner Laurent equity in the property, and refuses to obtain payment, and pay- off, in so many occasions, from Mr. Nicolas S. Laurent.

On April 21, 2005, Petitioner's Laurent property located at 1915 N.W. 134 Street Miami, Florida 33167

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7. There is no time limit for attacking a void Judgment under N. D. R.. Civ. P. 60 (b) (iv). Egg v. Fleet Guard. Inc., 1998 N D 166, 583 N.W. 2d 812..

, is in good condition, new paint, new carpet, house size measures 3, 500 square feet, locate in nice residential area, lot measure 75 feet by 137 feet.

The bidder bid $ 165, 000. 00. less than value of the property, worth more than, $ 350, 000. 00, dollars, (Three hundreds fifty thousand dollars. Mr. Laurent, and family are injure party, evict from his property, without due process, cause Mr. Laurent economic damages, stress, embarrassment, and his children to suffer nightmares for bias and prejudice.

Select Portfolio Servicing Inc., formerly known as Fairbanks Capital Corp., U.S. Bank National Etc, and the bidder are not injured party, since they violate the automatic stay in bad faith, with malicious intent.

Petitioner paid Ms. Nancy N. Herkert, chapter 13 trustees, more than $ 78, 127. 10, dollars, inside the Chapter 13 payment plan, to paid all the creditors.

Therefore any post petition action such as the initiation of a lawsuit, it generally considered to be void, because it violates, the Bankruptcy Code's of Automatic Stay.

Fairbanks has a tendency to put consumer payment in a suspense account. The remaining mortgage balance for Fairbanks now change its name to Select Portfolio Servicing Inc., is less than $ 66, 000. 00, dollars.

Fairbanks has a tendency to violated state and Federal law, or regulation governing services that breaches the term of the Note, and the deed of trust that governs the loan, and also has tendency of abusive service practice; include improper foreclosure action, attempted foreclosure, improper fees, improper forced placed insurance, or improper use or oversight of escrow funds, and have history of committing deception foreclosures. Select Portfolio Servicing Inc., is doing the same deception foreclosure action that Fairbanks Capital Corp., received a Court order injunction prohibit from committing).

A judgment rendered during the pending of an automatic Stay is void, and Annul, because it constitutes the exercise of judicial discretion in violation of the automatic Stay, Jennings vs. Enterprise vs. Carte 224 GA App. 538 540 (1), 481 SE 2d (541) (197), See Colden vs. States of GA 244 App. 793, 794, (536 SE 2d 820.

Petitioner doesn't owed U.S. Bank National Assoc., etc., Even a State Court of General Jurisdiction lacks subject matter Jurisdiction, when it empower to act has been divested, by a Federal Statute.

Void is defined as annul, nugatory, having no legal effect, unable in law to support the purpose, for it was intended. Act undertaken of "willful violation of the automatic Stay is void and may expose the violators of monetary sanction, punitive damage pursuant to 11 U. S. C. § 362 (h).

Petitioner, Nicolas S. Laurent pray the Honorable Supreme Court of the United States to grant Petition for Writ of Certiorari, and to return the key of the property, to Petitioner, for the reasons discussed above as well as those set forth in the Petition.

I, Nicolas S. Laurent do solemnly swear that the above statement is true and complete to the best of my knowledge.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

Nicolas S. Laurent
P. O. Box 260189
Boston, Massachusetts 02126
Tel: (617) 894-9774
Pro Se / attorney

Dated May 31, 2007

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
Entered on November 29, 2006

No. 06-12407
Non-Argument Calendar

D. C. Docket No. 05-21438- CV-JEM

BKCY No. 00-50881-BKC-RBR

IN RE: NICOLAS S. LAURENT,

Debtor.

NICOLAS S. LAURENT,

Plaintiff- Appellant,

versus

NANCY N. HERKERT, Trustee,

Defendant- -Appellee.

Appeal from the United District Court
for the Southern District of Florida

(November 29, 2006)

Before MARCUS, WILSON and PRYOR, Circuit Judges.

PER CURIAM:

Nicolas S. Laurent, a Chapter 13 debtor proceding pro se appeals the district court's affirmance of the bankruptcy court's April 19, 2005 order discharging the Trustee and closing his case. On appeal, Laurent argues that the bankruptcy court prematurely entered its order. According to Laurent, the order resulted in an improper foreclosure on his home prior to expiration of the 10-day stay under Rule 62 of the Federal Rules of Civil Procedure and Rule 8017 of the Federal Rules of Bankruptcy Procedure, which Laurent contends followed entry of the April 19th order.

He suggests that the foreclosure was a violation of the automatic stay and should be vacated. [1] When reviewing an appeal from a bankrupt patchy proceeding, we review legal determination de novo , When reviewing an appeal from a bankruptcy court or district court, and review the bankruptcy court's factual finding for clear error. In re Simmons, 200 F.3d738, 741 (11th Cir. 2000). We affirm[2].

Upon filing a petition for bankruptcy, an automatic stay, until the earliest of the following: the case is (1) closed; (2) dismissed, or (3) discharge. **See 11 U.S.C. § 362**

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[1] At the outset, we observe that we are without power to award this type of relief, as the foreclosure order was entered by a state court. Cf, Siegel v. Le Pore, 234 F. 3d 1163, 1172 (11th Cir. 2000) (en banc) (holding that Federal courts, other than the United States Supreme Court, have no authority to review the Final Judgments of states courts").

[2] We reject without further discussion Laurent's challenge to the district court's denial of his motion to alter or amend the judgment. Because Laurent presented no new evidence, nor did he show that the district court had made a manifest error of law or fact, he was not entitle to relief. See in Re kellog 197 F. 3d 1116, 1119 (11th Cir. 1999) observing that "[t]he only grounds for granting for [debtor 's] motion to [to alter or amend] are newly discovered evidence or manifest errors of law of fact").

Pursuant to Rule 62 (a), "no execution shall issue judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after entry." Fed. R. Civ. P. 62 (a). However, in the bankruptcy context, Rule 62 applies only in "adversary proceeding."

Fed. R. Bank. P. 7062. Rule 7001 of the Federal Rules of Bankruptcy Procedure list the type pf adversary proceedings, none of which encompasses the proceeding involved in this case. According, the 10-day stay provision of Rule 62(a) does not apply to Laurent's bankruptcy case and the district court did not err by entering its order discharging the Trustee and closing the case.[3]

AFFIRMED.

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[3]Even if the provision did apply to a case such as this one, the crus of Laurent' appeal is a challenge to the foreclosure of his home as violative of the automatic stay. We have already decided in a prior appeal that no automatic stay was in effect at the time of the foreclosure. See in re Laurent, No 06-10802 (11th Cir. Jul 18, 2006 (unpublished). As for Laurent's arguments concerning the trustee action relating to the administration of his payment plan, and his claim that the bankruptcy judge was biased against him, we will not considers these issues because they are for the first time on appeal. Walker v. Jones, 10 F. 3d 1569, 1572 (11th Cir. 1994).

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
Entered on January 22, 2007

NO. 06-12407-CC

In Re: NICOLAS LAURENT,

Debtor,

NICOLAS LAURENT,

Plaintiff-Appellant,

versus

NANCY N. HERKERT, Trustee,

Defendant--Appellee,

On Appeal from the United States District Court for the Southern District of Florida.

Before, Marcus, Wilson and Pryor, Circuit Judges.

PER CURIAM:

The petition(s) for rehearing filed by Appellant is Denied.
ENTERED FOR THE COURT:

/s/ Stanley Marcus
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami- Division
Entered on March 29, 2006

Case Number: 05-21438-CIV- MARTINEZ- BANDSTRA

NICOLAS S. LAURENT.
Appellant,

CLOSED CIVIL CASE

vs.
NANCY N. HERKERT, CHAPTER 13 TRUSTEE,
Appellee
_____/

ORDER ON BANKRUPTCY APPEAL

THIS CAUSE came before the Court upon Appellant's Motion for Leave to Appeal to the United States District Court and Appellant's Notice of Appeal, both of which pertain to the United States Bankruptcy Court for the Southern District of Florida's ("Bankruptcy Court") Order Discharging Trustee and closing Case, entered on April 19, 2005. The Court has carefully considered the written submissions of the parties[1] and the

record on appeal and finds for the reasons stated herein that the Bankruptcy Court's Order is Affirmed.

I. Relevant Factual and Procedural Background

On October 10, 2000, Appellant Nicolas S. Laurent ("Laurent") filed a voluntary bankruptcy petition

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[1]In this case, Appellant filed a brief, However -Appellee never filed a Response Brief. This Court declines to enter a default in this case because of -Appellee's failure to filed a response and will deny Appellant's Motion for Default for failure of -Appellee to Filed [sic] Answer Brief {D. E. No. 7), filed on September 23, 2005. The Court does note that the -Appellee has filed a motion to dismiss this appeal as moot { D.E. No. 5}, which this court will deny for the reasons stated in footnote 5. This Court is unaware of any rule which states the filing of the motion to dismiss an appeal somehow obviates and Appellee's duty to respond to a brief pursuant to Federal Rules of Bankruptcy Procedure 8009(2). In Fact Rule 8009 states that "[unless the district court or the bankruptcy appellate panel by local rules or by order excuses the filing of briefs or specifies different times limits and the time to file such a brief" is as specified in Rule 8009.
In this case, the time to filed s response brief pursuant to Rule 8009 has long since passed. Therefore, this court will reconsider this appeal without a response brief.

pursuant to Chapter 13 of the Bankruptcy Code. This case was eventually on January 7, 2004. On April 14, 2005, the court entered an Order Closing Chapter because the Court found all pending Motions were denied and no further matters were before the court. This court then entered a subsequent order on April 19, 2005, the order which is the subject of this appeal, closing the case and discharging the trustee.[2] Appellant alleges that on April 21, 2005, after the case was closed U.S. Bank National Association foreclosed on his property. On May 2, 2005, the court entered an Order Re-Opening the Case, stating that the clerk had erred in administratively closing this case.

Creditor Select Portfolio Servicing Inc., the servicing agent for creditor and mortgagor, U. S. Bank National Association, then filed a Motion for Declaration [that] the Automatic Stay is not in Effect on May 13, 2005. Laurent filed an objection to this motion, However, on June 15, 2005, the bankruptcy court granted the motion and ordered that the automatic stay had been in effect since the dismissal of the case on January 7, 2004. Laurent Filed a Motion to Alter or Amend this order entered on June 15, 2005, which the Bankruptcy Court denied. this order was later affirmed on appeal in another case. See Laurent v. Herkert, Case No. 05-22101-CIV-ALTONAGA.[3]

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[2] The Court notes that this was not the First time in the course of the bankruptcy case that the case was closed and the trustee discharged.

[3]The Court notes that to the extent it has found the record provided in this case lacking it has taken judicial notice of the record and the orders entered in Laurent v. Herkert, Case No. 05-22101-CIV-Altonaga.

II. Standard of Review

In reviewing a bankruptcy court's orders, this court reviews question of law de novo and questions of fact for clear error.

See, e.g., In re Fin. Federated Title & Trust, In., 309 F. 3d 1325, 1328-29 (11th Cir. 2002). A Finding is clearly erroneous[1] when although there is evidence to support it., the reviewing court on the entire evidence is left with definite and firm conviction that a mistakes has been committed." United States v. Gypsum Co., 333 U.S. 364, 395, (1948).

III. Analysis

Laurent argues that the Court's April 19, 2005, order was improper because the order was entered without regard to " the ten days period of automatic Stay." (D. E. No. 3 at 7). Laurent place on April 21, 2005 be vacated. Laurent argues he should be allowed to

"redeem his property back from his foreclosure, since U.S. Bank Nation Association... failed to obtain Relief for the automatic Stay to commence a foreclosure action against Nicolas S. Laurent ...4 However, this Court finds Laurent's arguments lack merit.

Appellant Laurent Argues it was error for the court to close the case without rcgard to the ten day period of automatic stay" pursuant to Federal Rule of Bankruptcy procedure 8017(a) (D. E. No. 4 at 2). However Federal Rules of Bankruptcy Procedure 8017 (a) does not apply to the order on appeal in this case because Rule 8017 (a) does not apply to the orders entered by

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4.Laurent also argues that this foreclosure was done " without service of process to the Appellant, and when appellant not in default in their [sic] mortgage payment." (D.E. No. 4 at 12). However, whether or not the foreclosure was appropriate is not relevant to this appeal of a bankruptcy order, especially as the foreclosing party is not a party to this action.

the Bankruptcy Court. Rather, Rule 8017 (a) applies to orders by courts acting as appellate courts, district courts or bankruptcy appellate panels, and requires that orders entered by these courts be stayed for ten days. Federal Rules of Bankruptcy procedure 7062 does state that Federal Rule of Civil Procedure 62, which provides that " no execution shall issue upon a Judgment nor shall expiration of 10 days after is entry." applies in adversary proceeding within the bankruptcy case as defined in Federal bankruptcy Rule 7001.

More importantly, Appellant has appealed this April 19, 2005, order of bankruptcy court believing its entry lifted the automatic stay and therefore, allowed U.S. Bank National Association to foreclose on his property

on April 21, 2005. However, the court adopts the order on Bankruptcy Appeal entered in Laurent v. Herkert, Case No. 05-22101-CIV-Altonaga and finds the automatic stay was lifted long before April 2005. On June 15, 2005, the bankruptcy court entered an order

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5 The Court does note that on May 2, 2005, the court entered an Order Re-Opening Bankruptcy Case which states:

> The court entered an Order closing the Chapter 13 case dated April 14, 2005, and docketed by the clerk's office on April 19, 2005. The clerk erred in administratively closing this case without regard to the ten day period for filing a Notice of Appeal pursuant to Bankruptcy Rules 8002. On April 28, 2005, the debtor filed his Notice of Appeal and Motion for Leave to Appeal Timely. It is therefore:
>
> ORDERED that the Chapter 13 bankruptcy case is reopened.

(D.E. No. 2). The Court notes that -Appellee appears to argues that this order renders this appeal moot. because Appellant's Argument focus on what happened because the case was closed. i. e. the foreclosure which occurred on April 21, 2006. There is no indication in the record that anything occurred which rendered this foreclosure moot. While the court, as discussed above, does not find merit in Appellant's allegation of error, they are moot. While the Court, as discussed above, does not find merit in Appellant's allegation of error, they are not moot. Therefore, this Court will deny Appellant's -Appellee Nancy N. Herkert, Chapter 13 Trustee's Motion to Dismissed Appeal as Moot (D. E. No. 5).

Granting Select Portfolio's Motion for Declaration the Automatic Stay is not in effect, stating that "the automatic Stay has not been in effect since entry of this court's order of Dismissal on January 7, 2004." In response to this order, Laurent filed a motion for the court to alter or amend the order Granting Select Portfolio's Motion for Declaration the automatic stay is not in effect. The Bankruptcy Court denied this order and Laurent appealed to this court. See Laurent v. Herkert, Case No. 05-22101-CIV-Altonaga.

In Laurent v. Herkert, Case No. 05-22102-CIV-Altonaga, the court affirmed the bankruptcy court's order denying Motion to Alter or Amend finding that the dismissal of the case and the expiration of the automatic stay became final on January 17, 2004, ten days after the order is dismissing the case was issued. (D.E. No. 9 in Laurent v. Herkert, Case No. 05-22102-CIV-Altonaga}. 7 If Appellant intended to challenge the lifting of the automatic stay, the appropriate order for him to have appealed was the order dismissing the case on January 7, 2004.

Therefore, it is hereby: **Ordered and Adjudged** that

1. The Bankruptcy Court's Order Discharging the trustee and closing Case, entered on April 19, 2005, is Affirmed.

2. Appellee Nancy N. Herkert, Chapter 13 Trustee's Motion to Dismiss Appeal as Moot (D. E. **No. 5) is** Denied.

3. Appellant's Motion for Default for failure of - Appellee to filed { sic } Answer Brief (D.E. No. 7) is Denied.

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6. Select Portfolio Servicing, Inc., was the servicing agent for creditor and mortgagor, U. S. Bank National Association.

7. This order affirming the bankruptcy court is currently on appeal to the Eleventh Circuit.

4. Appellant's Motion to Stay Pending Appeal **(D. E. No. 4) is DENIED as MOOT.**

5. **This Case is CLOED** and all pending motions not otherwise ruled upon are **DENID as MOOT.**

DONE AND ORDERED in Chambers at Miami, Florida, this 28 day of March, 2006.

/s/_____
JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

UNITED STATES BANKRUPTCY COURT
Southern District of Florida,
www.flsb.uscourts.gov
Entered on April 19, 2005

In re:
Ni cholas Laurent

CASE NO: 00-50881-BKC-RBR
CHAPTER 13

_____/

ORDER DISCHARGING TRUSTEE AND CLOSING CASE

An order dismissing the above-named case has been entered, the trustee, Nancy N. Herkert, having a final report, is discharged and this case is closed.

ORDERED in the Southern District of Florida on April 19, 2005

/s/_____
Raymond B. Ray
United States Bankruptcy Judge

Copies to: Attorney for Debtor
Debtor
Nancy N. Herkert

U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
Entered by the court on May 2, 2005.

In re: Case No: 00-50881-BKC-RBR
Nicholas Laurent Chapter 13

ORDER RE-OPENING BANKRUPTCY CASE

THIS MATTER has been brought to the court's attention sua sponte. The court entered on Order closing chapter 13 case dated April 14, 2005, and docketed by the clerk 's office on April 19, 2005.

The clerk erred in administratively closing this case without regard to the ten day period for file a Notice of Appeal pursuant to bankruptcy Rule 8002. On April 28, 2005, the debtor filed his Notice of Appeal and Motion for Leave filed timely.

It is therefore ORDERED that the Chapter 13 Bankruptcy case is reopened on **May 2, 2005**

/s/
Raymond B. Ray
United States Bankruptcy **Judge**

Copy furnished to:
Nicholas Laurent
POB 693631
Miami- Fl 33269

Nancy N. Herkert
Pob 279806
Miramar, Fl 33027

UNITED STATES BANKRUPTCY COURT
SOUTHEN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION
(Entered May 13, 2005)

CASE NO: 00-50881-BKC-RBR
CHAPTER 13

In re:
NICHOLAS LAURENT

Debtor
_____/

SELECT PORTFOLIO'S MOTION FOR DECLARATION THE AUTOMATIC STAY IS NOT IN EFFECT

SELECT PORTFOLIO SERVICING Inc., as servicing agent for U.S. Bank National Association F/ K /A / First Bank National Association TR U/A Dtd 03/01/97, Home Equity Loan Trust 1997-1) hereinafter "Select through counsel filed its motion for Declaration the Automatic Stay is not in effect and in support thereof states:

Background / Chronology Events

1. Movant has filed this motion for Declaration the automatic is not in effect for the purpose of obtaining a comfort order to allow completion of a foreclosure in the state court.

2. Select hold a Note and Mortgage encumbering the following collateral:

Lot 10 Block 1 **Lakeside Manor according to the plat thereof, as recorded in Plat Book 55,**

page 90 of the Public Records of Dade County, Florida.

3. The debtor's filed this Chapter 13 proceeding on October 10, 2000.

4. On January 7, 2004, this bankruptcy was dismissed with prejudice. B. According pursuant to 11 U.S.C. 362 (c) (2), the automatic Stay terminated upon dismissal of the case.

5. On March 18, 2004, a foreclosure judgment was entered under Circuit Court Case No. 00-18954 by the circuit court and for Miami Dade County Florida. A copy of said Summary Final Judgment is attached as Exhibit C.

6. Since the case was dismissed, the debtor acting pro se has filed Numerous motions and several appeals, most of which were without notice to a select and other interest parties. from reviews of the docket history for this bankruptcy proceeding, every motion filed by the debtor has been denied, however the matter remain open for administratively purpose only.

7. At a hearing before the state court, the debtor produced a copy of this court's order re-opening Case, entered May 5, 2005, and argued that the automatic stay was in effect. The state court requested an order from the bankruptcy court confirming that actions in the state were not stay by operation of the bankruptcy.

8. Movant hereby seeks its attorney's fees and cost incurred in filing this Emergency Motion for Relief from stay.

WHEREFORE, SELECT Respectfully request this Court enter an order declaring the automatic stay has not been in effect since the date of dismissal January 1, 2004.

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 13th day of May 2005, to: Nicholas Laurent, P.O. Box 693631, Miami, Florida 33269; and Nancy N. Herkert, trustee, P.O. Box 278806, Miramar, Florida 33027.

ADORNO & YOSS LLP
2525 Ponce De Leon Boulevard
Suite 400
Miami, Fl 33141
Telephone: (305) 460-1000
Fax : 460-1421
/s/
_Gregg S. **Ahrens**
Florida Bar No. 352837

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www. flsb.uscourts.gov
Entered on May 27, 2005)

In a Chapter 13 proceeding
Case number: 00-50881-BKC-RBR
Adv. Case Number
County of Resident/ Principle
Piece of Business Dade

In re:
Nicholas Laurent

Debtor_____/
Plaintiff

vs.

Nancy N. Herkert

Defendant ____/

TRANSMITTAL OF MOTION FOR LEAVE TO APPEAL TO: CLARENCE MADDOX COURT ADMINISTRATOR / CLERK OF COURT

The party or parties included in the Motion

MOVANT/
Appellant(S) Nicholas Laurent Attorney: Nicolas S. Laurent
P.O. Box 693631
Miami, Fl 33269

RESPONDENT: **Attorney:**
APPELLEE(S) / Nancy N. Herkert
Nancy H. Herkert
P.O. Box 279806
Miramar Fl. 33027

Title & Date of order to be Appeal Order Denying Motions o Alter or Amend

{ √ }Motion for Leave to Appeal { √ } Respondent's answer
{ √ } Notice of Appeal { √ } Movant;s Reply
{ √ } Copy Docket

{ √ }Other _____

_____

KAREN EDDY CLERK OF COURT
Dated May 27, 2005, By: Susan P. Harper
Deputy Clerk, USBC
Telephone No: 954-769-5700

Bankruptcy Rule 8003 acknowledge of Assignment in District Court
District Court Case Number 05-21438 CIV Martinez
CLARENCE MADDOX
COURT ADMISNISTRATOR / CLERK OF COURT

By: /s/_____
Deputy USDC
Telephone No:_____

USDC
ATTORNEY FOR MOVANT
ATTORNEY FOR RESPONDENT

UNITED STATES BANKRUPTCY COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA
CASE NO: 00-50881-BKC-PGH

In Re: NICHOLAS S. LAURENT
Debtor,
_____/

AMENDMENT TO MOTION TO VACATE ORDER DISMISSING CASE AND CONFIRMED 5TH MODIFIED PLAN, AND/ OR REDUCE PREJUDICE PERIOD

COMES NOW the Debtor, NICHOLAS LAURENT, by and through the undersigned attorney and files this Amendment to Motion To vacate order dismissing Case and confirm 5th Modified Plan, and Reduce Prejudice Period and states:

1. That paragraph 2 of the original motion is hereby amended to state:

2. That said case came to be dismissed for failure to provide the trustee with documents.

I HEREBY Certify that a true and correct copy of the foregoing was mailed to the Unite States Trustee at 51 S.W. First Avenue, Room 1204, Miami, Florida 33130, Nancy Herkert trustee at P.O. Box 279806, Miramar, Florida 33027, and to all creditors on **February 2, 2004.**

/s/_____
Jared J. Kullman
Attorney for Debtor
1910 S. State Road 7
Miramar, FL 33023
(954) 629-9319

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
Entered on February 5, 2004
CASE N0: 00-50881- BKC-PGH

IN RE:
Nicolas S. Laurent,
DEBTOR (S).
_____/

ORDER SETTING HEARING ON PRO SE DEBTOR'S MOTION FOR AUTOMATIC STAY OF EXCUTION AND SUSPEND [SIC] PROCEEDINGS

THIS MATTER came before the Court on February 2, 2004, upon Nicolas S. Laurent's (" Debtor") Motion for Automatic Stay of Execution and Suspend [sic] Proceedings (" Motion"). The Court, having reviewed Pro se Debtor's Motion and being otherwise fully advised in the premises, Hereby:

ORDERS AND ADJUDGES that Pro Se Debtor's Motion is set for hearing before the Honorable Paul G. Hyman, JR. on March 1, 2004, at 9:30 a.m., at the United States Bankruptcy court, 299 East Broward Boulevard, Courtroom # 308, Fort Lauderdale, Florida.

Ordered in the Southern District of Florida on FEB. 5, 2004.

/s/_____
Paul G. Hyman, Jr.
United States Bankruptcy Judge

Copies Furnished To:
Nicholas S. Laurent, 1915 N.W 134 St, Miami, Fl 33167.
Jared J. Kullman, Esq., 1910 S. State Rd 7, Miramar, Fl 33023

EquitCredit

Fairbanks Capital
Loan Servicing Center
10401 Deerwood park
Jacksonville Florida,
March 8, 2002

Dear valued Customer;

we are pleased to inform you that EquitCredit Corporation of America of is transferring the servicing of your mortgage loan to Fairbanks Capital Corp. effective April 1, 2002.

The transfer of mortgage, servicing is a common practice in today's marker and does not affect any term or condition of your mortgage, other than those provisions related to the to the servicing of your mortgage. please refer to the Notice of Assignment included with this letter for the Real Estate Settlement Procedures Act (RESPA) information. Fairbanks Capital Corp. is committed to providing the quilt service you are accustomed to and is looking forward to making this transfer a smooth and pleasant experience for you.

Beginning April 1, 2002 Fairbanks Capital Corp. will be responsible for processing your loan payments.
Payments will be applied to your loan by EquitCredit Corporation of America if received prior to Aril 1 2002, or forwarded to Fairbanks Capital Corp, if received on or after that date.
All payments and correspondence regarding your loan shoul be addressed as indicated below:

Fairbanks Capital Corp. also offers a variety a payment options including Check by phone automatic withdrawal, and Western Union products. Please Telephone Fairbanks Capital Cop. Customers Services at (800)-944-1212, on or after April 1, 2002. For more information . for some information regarding these products.

Our goal is to continue to meet your expectations of great service. If you have any questions regarding this transfer prior to Spoil 1, 2002, please contact EquiCredit Corporation of America Customer

Sincerely.

Fairbanks Capital Corp.
EquiCredit Corporation of America

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(Entered on November 10, 2004)

IN RE: Case No. 00-50881- BKC PGH
CHAPTER 13

NOTICE OF DEPOSIT OF FUNDS WITH THE U. S. BANKRUPTCY COURT CLERK

NOTICE IS HEREBY GIVEN THAT:
(XX) The trustee has a balance of $ 4, 681, 64 remaining in her bank account which represents unrepresented checks drawn and mailed to debtor's /creditor (s) in the above named case. Your trustee has made a good faith effort to verify the correct mailing address for said debtor ('s) Creditor (s) and deliver the funds before presenting this notice. More than sufficient time has passed for these checks to be presented for payment.

( ) The trustee has a balance of $ 00 remaining is her bank account which represent small dividends as defined by FRBP 3010.
Attached and made a part of this notice is list pursuant to FRB 3011 of the name, claim numbers and addresses of the debtor (s) creditor (s) and the amounts to which they are entitled.

WHEREFORE, Your trustee hereby gives notice that the above stated sum has been deposited with the clerk of U. S. Bankruptcy Court, Southern District of Florida, to affect closing of the estate.

Date: 11/ 09/ 04 /s/_____
NANCY N. HERKERT
CHAPTER 13 TRUSTEE